

Message Text

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70

ACTION NEA-10

INFO OCT-01 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00 DOTE-00

EB-07 INR-05 NSAE-00 RSC-01 FAA-00 PM-03 H-01 L-02

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FM AMEMBASSY ISLAMABAD

TO SECSTATE WASHDC 7781

INFO AMEMBASSY NEW DELHI

AMCONSUL KARACHI

AMCONSUL LAHORE

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E.O. 11652: N/A

TAGS: PFOR, EAIR, PK, IN

SUBJECT: INDO-PAK TALKS ON CIVIL AVIATION

REF: ISLAMABAD 11081

1. SUMMARY. DR. KHURSHID HYDER, ACTING DIRECTOR GENERAL, AMERICAS, TOLD EMBOFFS THAT CIVIL AVIATION TALKS FAILED REACH AGREEMENT BECAUSE OF PAK REFUSAL TO FOREGO ITS RIGHT TO APPEAL TO ICAO AND BECAUSE OF PAK UNWILLINGNESS TO FOREGO COMPENSATION FOR LOSSES DUE TO OVERFLIGHT BAN. SHE STATED THAT DIVERGENCE IS SO GREAT THAT IT UNLIKELY THAT TALKS WILL RESUME IN NEAR FUTURE BUT THAT IMPASSE ON AVIATION MATTERS SHOULD NOT PREJUDICE TRADE TALKS OR OTHERWISE IMPEDE PROGRESS IN IMPLEMENTING SIMLA AGREEMENT. END SUMMARY.

2. NOVEMBER 26 POL COUNSELOR AND ECON OFFICER CALLED UPON DR. HYDER FOR BRIEFING ON RECENTLY CONCLUDED PAK CIVIL AVIATION TALKS. (MFA DIRECTOR GENERAL ABDUL SATTAR, LIMITED OFFICIAL USE

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USUAL SOURCE, NOW IN DELHI FOR TRADE TALKS) DR. HYDER STATED

THAT PRESS ACCOUNTS AS REPORTED REFTEL WERE ESSENTIALLY CORRECT. SHE ATTRIBUTED FAILURE TO REACH AGREEMENT TO (A) GOP UNWILLINGNESS TO FOREGO ITS RIGHT OF APPEAL TO ICAO OR OTHER INTERNATIONAL AGENCY SHOULD BILATERAL TALKS FAIL AND (B) PAK UNWILLINGNESS TO GIVE UP ITS CLAIM FOR COMPENSATION FOR LOSSES CAUSED BY OVERFLIGHT BAN GOI UNILATERALLY DECLARED FOLLOWING HIJACKING AND SUBSEQUENT DESTRUCTION AT LAHORE OF IAC PLANE IN EARLY 1971.

3. DR. HYDER STATED THAT INDIAN VIEW IS THAT SIMLA AGREEMENT TO CONDUCT BILATERAL TALKS CONCERNING CIVIL

AVIATION AND OTHER MATTERS IMPLIES THAT SUCH ISSUES WILL BE SETTLED SOLELY BETWEEN THE TWO COUNTRIES. GOP VIEW IS THAT, THOUGH SIMLA AGREEMENT PROVIDES FOR BILATERAL TALKS, GOP HAS NOT GIVEN UP AND CANNOT FOREGO ITS RIGHT TO APPEAL TO INTERNATIONAL INSTITUTIONS. DR. HYDER STATED THAT AS PAKISTAN IS SMALLER AND WEAKER COUNTRY, IT COULD NOT AFFORD TO DEAL WITH INDIA EXCLUSIVELY ON A BILATERAL BASIS.

4. WITH REGARD TO COMPENSATION CLAIMS, DR. HYDER STATED THAT INDIAN PROPOSAL WAS THAT BOTH SIDES SHOULD DROP CLAIMS FOR COMPENSATION. HOWEVER, PAKISTAN WOULD NOT AGREE TO SUCH AS GOP CONSIDERS INDIAN COMPENSATION CLAIMS, UNLIKE ITS OWN, TO BE TOTALLY WITHOUT FOUNDATION. SHE REPEATED FAMILIAR GOP POSITION THAT "KASHMIRI FREEDOM FIGHTER" WHO DESTROYED IAC PLANE WAS ACTUALLY INDIAN INTELLIGENCE AGENT AND, IN ADDITION, NOTED THAT NO STATE HAS EVER AGREED TO PAY COMPENSATION FOR A PLANE DESTROYED BY A PRIVATE CITIZEN. GOP POSITION REGARDING GOI CLAIMS FOR COMPENSATION DUE TO OVERFLIGHT LOSSES IS THAT THEY ARE WITHOUT MERIT BECAUSE GOI INITIALLY BANNED OVERFLIGHT UNILATERALLY. ON OTHER HAND, GOP CONSIDERS ITS CLAIM FOR COMPENSATION FOR LOSSES DUE TO OVERFLIGHT BAN TO BE VALID FOR SAME REASON, I.E., BECAUSE GOI UNILATERALLY INSTITUTED OVERFLIGHT BAN.

5. DR. HYDER CONCLUDED BY STATING THAT THE POSITION OF THE TWO SIDES IS SO FAR APART THAT SHE DOES NOT EXPECT LIMITED OFFICIAL USE

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TALKS TO RESUME IN THE NEAR FUTURE. (THIS PESSIMISTIC APPRAISAL CONTRACTS SHARPLY WITH THAT GIVEN OUR VISITING POL COUNSELOR IN NEW DELHI NOVEMBER 22 BY MEA DEPUTY SECRETARY KIRIM DOSHI. KOSHI, WHO HAD JUST RETURNED FROM ISLAMABAD TALKS, TOLD COUNSELOR HE EXPECTED SECOND ROUND WOULD BEGIN IN LATE DECEMBER OR MID-JANUARY.) DR. HYDER ADDED THAT GOP IS UNDER NO PRESSURE TO HAVE OVERFLIGHTS RESUMED AS IT HAS ONLY A FEW FAR EASTERN SERVICES WHICH

ARE AFFECTED BY INDIAN OVERFLIGHT BAN WHEREAS GOI HAS CONSIDERABLY MORE FLIGHTS AFFECTED BY PAK OVERFLIGHT BAN. ASKED ABOUT PRESS REPORTS THAT THE TWO SIDES HAD AGREED TO SET UP EXPERT COMMITTEES TO DEAL WITH SEVERAL ASPECTS OF THE OVERFLIGHT/COMPENSATION/AIR LINK ISSUE (REFTEL, PARA 4), DR. HYDER SAID IN EFFECT THAT THESE WOULD BE NON-OPERATIVE PENDING WORD THAT THE GOI WAS PREPARED TO MODIFY ITS POSITION.

6. IN RESPONSE TO QUESTION, DR. HYDER REPLIED THAT RESTORATION OF AIR LINKS IS DIRECTLY RELATED TO SETTLEMENT OF OVERFLIGHT PROBLEM AND CANNOT BE RESUMED INDEPENDENTLY OF SUCH. HOWEVER, SHE SAW NO REASON WHY FAILURE TO ACHIEVE AGREEMENT AT THIS TIME ON CIVIL AVIATION AFFAIRS SHOULD IN ANY WAY AFFECT ONGOING TALKS CONCERNING TRADE OR OTHERWISE IMPEDE PROGRESS TOWARD IMPLEMENTING OTHER ASPECTS OF THE SIMLA AGREEMENT.
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